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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,655	12/22/2003	Robert May	1665/SYMBP182US	7594

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AMIN, TUROCY & CALVIN, LLP
1900 EAST 9TH STREET, NATIONAL CITY CENTER
24TH FLOOR,
CLEVELAND, OH 44114

EXAMINER

ELISCA, PIERRE E

ART UNIT

PAPER NUMBER

3621

DATE MAILED: 10/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/743,655	Applicant(s) MAY ET AL.	
	Examiner Pierre E. Elisca	Art Unit 3621	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. This office action is in response to Applicant's amendment filed on 07/17/2006.
2. Claims 1-34 are pending.
3. The rejection to claims 1-34 under 35 U.S.C. 102 e) as being anticipated by Carr et al US 2004/0049401A1 and to claims 1-34 under 35 102 (e) as being anticipated by Rogers US 2003/0178487 A1 as set forth in the office action mailed on 04/17/2006 is maintained.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-34 are rejected under 35 U.S.C. 102 (e) as being anticipated by Carr et al US 2004/0049401A1.

As per claims 1-5 and 7-34 Carr discloses a method of age verification in connection with retail sales, the method comprising of:

A machine data reader (or machine-readable), the machine data reader associated with a verification component that determines age-related data information at least on part upon encoded data on an identification card read (or data encoded on a driver's license) by the machine data reader, and a component that relays the age-related information to a point-of-sale system in a format that is compatible with the point-of-sale system. Applicant's newly added limitation wherein said the machine data reader containing a verification component that decodes the encoded data, extracts the age-related data information, and generates a data string compatible with a point-of-sale is also disclosed by Carr specifically page 3, [0059] (see., abstract, page 2, [0045], page 3, [0059], page 5, [0085], page 8, specifica).

As per claim 6 Carr discloses the claimed limitation wherein the point-of-sale system comprising a display unit that displays the age-related data (see., page 5, [0085]).

Please note that it is inherent to realize that the machine readable data on the card also includes the age-related data.

6. Claims 1-34 are rejected under 35 U.S.C. 102 (e) as being anticipated by Rogers US 2003/0178487 A1.

As per claims 1-34 Rogers discloses a Detsky age verification information system, the system comprising:

A machine data reader, the machine data reader associated with a verification component that determines age-related data information at least on part upon encoded

data on an identification card read the machine data reader, and a component that relays the age-related information to a point-of-sale system in a format that is compatible with the point-of-sale system. Applicant's newly added limitation wherein said the machine data reader containing a verification component that decodes the encoded data, extracts the age-related data information, and generates a data string compatible with a point-of-sale is also disclosed by Carr specifically page 3, [0059] (see., abstract, figs 1, 15A-22, pages 1-8).

RESPONSE TO ARGUMENTS

7. Applicant's arguments filed on 07/17/2006 have been fully considered but they are not persuasive. Necessitated by amendment.

REMARKS

8. In response to Applicant's arguments, Applicant argues that the prior art of record (Carr and Rogers) fail to disclose the recited feature:

" The machine data reader containing a verification component that decodes the encoded data, extracts the age-related data information, and generates a data string compatible with a point-of-sale system based at least in part on the age-related data.

The Examiner concludes that when the prior art describes all the claimed structural and functional relationships between the descriptive material and the substrate, but the prior art describes a different descriptive material than the claim, then the descriptive material is non-functional and will not be given any patentable weight.

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That is, the Examiner concludes that such a scenario presents no new and unobvious functional relationship between the descriptive material and the substrate. See *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994); *In re Ngai*, 367 F.3d, 1336, 1338, 70 USPQ2d 1862, 1863-64 (Fed. Cir. 2004).

Furthermore, the prior art of record (Carr) discloses the limitation detailed above in page 3, [0059].

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre E. Elisca whose telephone number is 571 272 6706. The examiner can normally be reached on 6:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571 272 6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Pierre Eddy Elisca

Primary Patent Examiner

September 25, 2006